

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES LATTNER,

Petitioner,

Civil No. 05-60206

Criminal No. 01-80640-01

v.

Hon. John Corbett O'Meara

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING PETITIONER'S
MOTION FOR RECONSIDERATION**

Before the court is Petitioner's motion for reconsideration, filed August 14, 2006.

Petitioner seeks reconsideration of this court's July 24, 2006 order denying his motion to vacate sentence. No response was ordered and no oral argument was heard. See LR 7.1(g)(2).

Pursuant to Local Rule 7.1(g)(1) (E.D. Mich. Sept. 8, 1998), Petitioner's motion is untimely, because it was not filed within ten days of the entry of the order at issue.

Even if Petitioner's motion was timely, Petitioner has not met the standard for granting a motion for reconsideration.

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration which merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant shall not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

LR 7.1(g)(3).

Having filed a motion for reconsideration that presents the essentially the same issues ruled upon by the court, Petitioner has failed to demonstrate a palpable defect by which the court

and the parties have been misled. Petitioner does present a new argument, that his right to confront witnesses was violated by the government's failure to produce a former task force agent for trial. Petitioner raised this argument for the first time in an "amendment" to his motion to vacate sentence, which was filed the same day as the court's order denying the motion. This argument was untimely and was not considered by the court. Having reviewed Petitioner's motion for reconsideration and Crawford v. Washington, 124 S.Ct. 1354 (2004), cited by Petitioner, the court further finds that this argument does not warrant reconsideration of its order denying Petitioner's motion to vacate.

Therefore, IT IS HEREBY ORDERED that Petitioner's August 14, 2006 motion for reconsideration is DENIED.

s/John Corbett O'Meara
UNITED STATES DISTRICT JUDGE

Dated: October 4, 2006

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, October 4, 2006, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager